

# SENATE BILL 921

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2lr3212  
CF HB 395

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By: **Senator Conway**

Introduced and read first time: February 10, 2012

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 20, 2012

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Board of Nursing – Sunset Extension and Revisions**

3 FOR the purpose of continuing the State Board of Nursing in accordance with the  
4 provisions of the Maryland Program Evaluation Act (sunset law) by extending  
5 to a certain date the termination provisions relating to the statutory and  
6 regulatory authority of the Board; requiring that an evaluation of the Board and  
7 the statutes and regulations that relate to the Board be performed on or before  
8 a certain date; requiring the Board to submit a certain annual report to the  
9 General Assembly; specifying the data that must be included in a certain  
10 annual report; altering a certain requirement related to the application for a  
11 license to practice registered nursing or licensed practical nursing; altering a  
12 certain requirement related to the application for certification as a certified  
13 nursing assistant; altering the membership of a certain advisory committee;  
14 requiring a certain advisory committee to meet at least once during a certain  
15 time period; requiring the ~~Board to contract with an independent entity~~  
16 Department of Budget and Management to perform a certain personnel study to  
17 be completed on or before a certain date and to submit a certain study to certain  
18 committees of the General Assembly on or before a certain date; requiring the  
19 Board to report to certain committees of the General Assembly on the  
20 implementation and use of certain sanctioning guidelines on or before a certain  
21 date; requiring the Board to report to certain committees of the General  
22 Assembly on the implementation of certain recommendations; requiring the  
23 report to include certain information and a certain plan; making a stylistic  
24 change; and generally relating to the State Board of Nursing.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,  
 2 Article – Health Occupations  
 3 Section 8–205(a)(8), 8–304, 8–6A–05(c)(2), 8–6A–13, and 8–802  
 4 Annotated Code of Maryland  
 5 (2009 Replacement Volume and 2011 Supplement)

6 BY repealing and reenacting, without amendments,  
 7 Article – State Government  
 8 Section 8–403(a)  
 9 Annotated Code of Maryland  
 10 (2009 Replacement Volume and 2011 Supplement)

11 BY repealing and reenacting, with amendments,  
 12 Article – State Government  
 13 Section 8–403(b)(40)  
 14 Annotated Code of Maryland  
 15 (2009 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Health Occupations**

19 8–205.

20 (a) In addition to the powers and duties set forth elsewhere in this title, the  
 21 Board has the following powers and duties:

22 (8) To submit [an annual report] to the Governor, [and] **THE**  
 23 **Secretary, AND, IN ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT**  
 24 **ARTICLE, THE GENERAL ASSEMBLY, AN ANNUAL REPORT THAT INCLUDES THE**  
 25 **FOLLOWING DATA CALCULATED ON A FISCAL YEAR BASIS:**

26 **(I) THE NUMBER OF INITIAL AND RENEWAL LICENSES AND**  
 27 **CERTIFICATES ISSUED;**

28 **(II) THE NUMBER OF POSITIVE AND NEGATIVE CRIMINAL**  
 29 **HISTORY RECORDS CHECKS RESULTS RECEIVED;**

30 **(III) THE NUMBER OF INDIVIDUALS DENIED INITIAL OR**  
 31 **RENEWAL LICENSURE OR CERTIFICATION DUE TO POSITIVE CRIMINAL HISTORY**  
 32 **RECORDS CHECKS RESULTS;**

1                   **(IV) THE NUMBER OF INDIVIDUALS DENIED LICENSURE OR**  
2 **CERTIFICATION DUE TO REASONS OTHER THAN A POSITIVE CRIMINAL HISTORY**  
3 **RECORDS CHECK;**

4                   **(V) THE NUMBER OF NEW COMPLAINTS RECEIVED;**

5                   **(VI) THE NUMBER OF COMPLAINTS CARRIED OVER FROM**  
6 **YEAR TO YEAR;**

7                   **(VII) THE MOST COMMON GROUNDS FOR COMPLAINTS; AND**

8                   **(VIII) THE NUMBER AND TYPES OF DISCIPLINARY ACTIONS**  
9 **TAKEN BY THE BOARD;**

10 8-304.

11           To apply for a license to practice registered nursing or licensed practical  
12 nursing, an applicant shall:

13                   (1) **[(i)]** Submit to a criminal history records check in accordance  
14 with § 8-303 of this subtitle; **[or**

15                                   (ii) Have completed a criminal history records check in  
16 accordance with § 8-303 of this subtitle through another state board of nursing within  
17 the 5 years preceding the date of application;]

18                   (2) Submit to the Board:

19                                   (i) An application on the form that the Board requires;

20                                   (ii) Written, verified evidence that the requirement of item (1) of  
21 this subsection is being met or has been met; and

22                                   (iii) Written, verified evidence of completion of the appropriate  
23 education requirements of § 8-302 of this subtitle; and

24                   (3) Pay to the Board the application fee set by the Board.

25 8-6A-05.

26           (c) (2) Subject to paragraph (1) of this subsection, an applicant for  
27 certification as a certified nursing assistant shall submit to the Board:

28                                   (i) **[1.]** A criminal history records check in accordance with §  
29 8-303 of this title; **[or**

1                   2. Evidence of completion of a criminal history records  
2 check in accordance with § 8–303 of this title through another state board of nursing  
3 within the 5 years preceding the date of application;] and

4                   (ii) On the form required by the Board, written, verified  
5 evidence that the requirement of item (i) of this paragraph is being met or has been  
6 met.

7 8–6A–13.

8           (a) The Board shall appoint an advisory committee consisting of at least [14]  
9 **15** members appointed by the Board.

10           (b) Of the [14] **15** committee members:

11                   (1) Six shall be nursing assistants:

12                           (i) One shall be an acute care nursing assistant;

13                           (ii) One shall be a home care nursing assistant;

14                           (iii) One shall be a long–term care nursing assistant;

15                           (iv) One shall be an adult medical day care nursing assistant;

16                           (v) At least one of the nursing assistant members shall be a  
17 member of a union; and

18                           (vi) One shall be an independent contractor;

19                   (2) Three shall be registered nurses:

20                           (i) One shall be an acute care registered nurse;

21                           (ii) One shall be a home care registered nurse; and

22                           (iii) One shall be a long–term care registered nurse;

23                   (3) One shall be an administrator from a licensed health care facility;

24                   (4) One shall be a licensed practical nurse;

25                   (5) One shall be an individual who teaches a nursing assistant course;

26                   (6) One shall be a consumer member who has received care, or has a  
27 family member who has received care from a nursing assistant; [and]

1 (7) One shall be a representative of the Department; **AND**

2 (8) **ONE SHALL BE A CERTIFIED MEDICATION TECHNICIAN.**

3 (c) The Board shall appoint an alternate for each of the three nursing  
4 assistant members in the event that the nursing assistant member is unable to  
5 discharge the duties of the committee.

6 (d) An advisory committee member shall serve a term of 4 years.

7 (E) **THE ADVISORY COMMITTEE SHALL MEET AT LEAST ONCE A MONTH.**

8 [(e)] (F) The advisory committee shall:

9 (1) Evaluate training programs and make recommendations for  
10 approval by the Board;

11 (2) Develop and recommend regulations to enforce the provisions of  
12 this subtitle;

13 (3) Evaluate candidates as required and recommend action to the  
14 Board;

15 (4) Review investigations of complaints against nursing assistants or  
16 medication technicians and make recommendations to the Board for disciplinary  
17 action;

18 (5) Keep a record of its proceedings; and

19 (6) Submit an annual report to the Board.

20 8-802.

21 Subject to the evaluation and reestablishment provisions of the Program  
22 Evaluation Act, the provisions of this title and of any rule or regulation adopted under  
23 this title shall terminate and be of no effect after July 1, [2013] **2023**.

24 **Article – State Government**

25 8-403.

26 (a) On or before December 15 of the 2nd year before the evaluation date of a  
27 governmental activity or unit, the Legislative Policy Committee, based on a  
28 preliminary evaluation, may waive as unnecessary the evaluation required under this  
29 section.

1 (b) Except as otherwise provided in subsection (a) of this section, on or before  
2 the evaluation date for the following governmental activities or units, an evaluation  
3 shall be made of the following governmental activities or units and the statutes and  
4 regulations that relate to the governmental activities or units:

5 (40) Nursing, State Board of (§ 8–201 of the Health Occupations Article:  
6 July 1, [2012] **2022**);

7 SECTION 2. AND BE IT FURTHER ENACTED, That:

8 (a) ~~The State Board of Nursing shall contract with an independent entity to~~  
9 Department of Budget and Management shall perform a personnel study to determine  
10 the necessity and allocation of additional staff to the State Board of Nursing.

11 (b) The study required under subsection (a) of this section shall:

12 (i) 1. include an analysis of the workload of the Board related to  
13 its licensure, certification, and complaint resolution functions; and

14 2. consider at a minimum the number of applications and  
15 complaints received by the Board, the number of employees assigned to each step of  
16 each function, and the amount of time an application or complaint remains at each  
17 step of each function;

18 (ii) include an analysis of the impact on staffing needs of:

19 1. the online processing of licenses and certificates; and

20 2. the movement to biennial renewal of licenses; and

21 (iii) make recommendations on the most effective use of existing staff,  
22 including cross training and reassignment.

23 (c) The study required under subsection (a) of this section shall be completed  
24 on or before October 1, 2013 and, in accordance with § 2–1246 of the State  
25 Government Article, shall be submitted to the Senate Education, Health, and  
26 Environmental Affairs Committee and the House Health and Government Operations  
27 Committee on or before December 1, 2013.

28 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,  
29 2012, the State Board of Nursing shall report to the Senate Education, Health, and  
30 Environmental Affairs Committee and the House Health and Government Operations  
31 Committee, in accordance with § 2–1246 of the State Government Article, on the  
32 implementation and use of the sanctioning guidelines required by Chapters 533 and  
33 534 of the Acts of the General Assembly of 2010.

34 SECTION 4. AND BE IT FURTHER ENACTED, That:

1           (a)    On or before October 1, 2013, the State Board of Nursing shall report to  
2 the Senate Education, Health, and Environmental Affairs Committee and the House  
3 Health and Government Operations Committee, in accordance with § 2-1246 of the  
4 State Government Article, on the implementation of nonstatutory recommendations  
5 contained in the sunset evaluation report dated October 2011.

6           (b)    The report required under subsection (a) of this section shall include:

7                   (1)   information on how the Board has improved its use of data  
8 collection and tracking for the application and complaint resolution processes; and

9                   (2)   the Board's plan to implement the findings of the personnel study  
10 required under Section 2 of this Act.

11           SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 June 1, 2012.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.